

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4491 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

K.M. RAMI

Versus

LIC OF INDIA

Appearance:

MR PRABHAKAR UPADHYAY for MR TR MISHRA for Petitioners
MR AK CLERK for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI
Date of decision: 23/12/96

ORAL JUDGEMENT

The petitioners have challenged the decision of the Life Insurance Corporation of India dated 12th August, 1985 at Annexure "A" to the petition, by which it was ordered to deduct wages of all the Class-III and IV employees who had unauthorisedly remained absent on 25th and 26th July, 1985.

The case of the petitioners is that there were

disturbances in the city of Ahmedabad in July, 1985 and because of the tense situation, the Courts and Offices in the area in question were remaining closed. A telegram was sent on 24th July, 1985 by the Unions to the Life Insurance Corporation bringing the tense situation to their notice and demanding that the office should be closed till normalcy was attained. The petitioners' case is that as it was unsafe for the employees to attend the office, the Class III and Class IV employees had remained absent on 25th and 26th July, 1985 but later on they had applied for Special Leave.

The case of the Corporation is that the situation was normal on 25th and 26th July, 1985 and the Unions were only trying to pressurise the Corporation to close down the offices.

It was contended on behalf of the petitioners that from the correspondence which was addressed to the Corporation and which is on record, it would transpire that the situation on these two days was tense and there was justification on the part of these employees to remain absent for their own safety. It was therefore contended that the Corporation ought to have granted their subsequent applications for Special Leave and deduction of wages for these two days was not justified.

The learned Counsel appearing for the Corporation submitted that the real question was that the Unions were trying to pressurise the Corporation and a "whispering" call was given to these employees asking them to abstain from duty on these two days. It was submitted that deliberate absence of these employees was by way of retaliation against the Corporation not closing down the offices.

It does appear that there were some disturbances in the city in July, 1985. However, from the letter dated 27th July, 1985 addressed by the petitioners to the LIC, it appears that the nearby General Post Office had remained closed for two days on 23rd and 24th July, 1985. In fact, the office of LIC was working even on 24th July, 1985 upto 4.30 P.M. It transpires from the affidavit-in-reply filed by the Corporation that on these two days i.e. 25th and 26th July, 1985, all the Class I Officers as well as the Class II Development Officers of the Corporation had attended the Offices. Most of the temporary Assistants had also attended the offices and signed their muster-rolls. It is stated that interviews were held on both these dates for the post of Peons and candidates from remote parts had attended for the

interviews. Moreover, candidates for the interview of Apprentice Development Officers had also attended the office during these two days. It is also stated that most of the office bearers of the three petitioner Unions were near the gate of the Divisional Office on these days to ascertain whether the employees were attending the office or not and infact some of the Class III and Class IV permanent employees who did not respond to the call of the Unions, attended the Office. Moreover, a number of Policy holders and agents came to the office for payment of premiums and for other work. It is stated that the situation was absolutely normal on 25th and 26th July, 1985 and there was no earthly reason for the petitioners to remain absent in anticipation of the disturbances.

From the record it does appear that all the Class I and Class II Officers had attended the office and interviews were taken for the posts of Peons and Development Officers (Apprentice). If the situation had become impossible or that much volatile, such large number of Class I and Class II Officers and the candidates who had to be interviewed, would not have remained present during these days in the office. It therefore, cannot be said that the decision of the Corporation to deduct wages for these two days for the unauthorised absence of the Class III and IV employees was arbitrary or unjustified. Under these circumstances, there is no case made out for interference by this Court against the impugned action. The petition is therefore, rejected. Rule is discharged with no order as to costs.

The learned Counsel for the petitioner submits that the petitioners desire to approach the Corporation to make a representation with regard to deduction of wages. It is always open for the petitioners to make any representation they like and it will be for the Corporation to take its own decision in accordance with law.
